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SUPERIOR COURT

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COWLITZ CO. CLERK
STACI L. MYKLEBUST

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STANDING ORDER – with Exhibits. A & B

Eviction Resolution Pilot Program (ERPP)¹

Effective July 16, 2021 through June 30, 2023² unless modified by the Court.

1. Findings. It is recognized that:

- A. Since late February 2020, the COVID-19 public health and economic crisis have combined to cause great health, social and economic harm to the people of the state of Washington, rendering many thousands unable to meet basic living expenses, including but not limited to rent expenses.
- B. Responding to the public health and economic emergency, on March 18, 2020, Governor Inslee issued Proclamation No. 20-19 imposing a moratorium on most residential evictions in Washington State. This Proclamation was renewed and the eviction moratorium was extended on multiple occasions. The most recent extension

¹ ERP changed to ERPP given language in ch. 115, Laws of 2021, Sec. 7.

² Per ch. 115, Laws of 2021, Sec. 7(9).

(Proclamation 20-19.6) expires June 30, 2021 pursuant to ch.115, Laws of 2021, sec. 4(1).

- C. Anticipating significant numbers of unlawful detainer filings upon anticipated expiration of the Governor's eviction moratorium, the Superior Court Judges' Association (SCJA) asked its Unlawful Detainer Work Group to develop a means of diverting nonpayment of rent cases away from the courts and into a collaborative resolution process that brings together landlords and their attorneys, tenants, legal aid and housing justice projects, administrators of state and local rent assistance programs, and trained eviction resolution specialists employed by community-based dispute resolution centers. The pre-5160 SCJA Pilot Eviction Resolution Programs (ERPs) and related operating protocols were established in King, Snohomish, Pierce, Thurston, Clark, and Spokane Counties, and conciliation/mediation services commenced in November 2020.
- D. Current estimates indicate that more than 160,000 individual households are currently in rent arrears and face the prospect of potential eviction after the current moratorium expires.
- E. On April 22, 2021, Governor Inslee signed Engrossed Second Substitute Senate Bill 5160 into law (ch.115, Laws of 2021, sec. 4(1)) which took effect that day. This legislation substantially changes the law governing landlord-tenant relations, generally prevents eviction for failure to pay unpaid rents accrued during the Governor's eviction moratorium, changes unlawful detainer practice and procedure, provides statewide authorization and support for court-established Eviction Resolution Pilot Programs (ERPPs) beyond the initial six pilot programs established pre-5160 by the SCJA and establishes a right to counsel for indigent tenants in unlawful detainer proceedings.

- 1 F. The final FY 2021-23 operating budget enacted by the Washington State Legislature
2 provides funding to underwrite ERPP operations, implement the right to counsel
3 program for indigent tenants, and includes \$658,000,000 for rent assistance payments
4 to tenants and landlords, offering landlords and tenants significantly expanded
5 opportunities to resolve rent related disputes that might otherwise lead to the filing of
6 an unlawful detainer action following expiration of the eviction moratorium.
- 7 G. Court operations have been substantially curtailed since April 2020 due to the COVID-
8 19 pandemic. Mandatory orders issued by the Washington Supreme Court and the
9 need to comply with essential public health and safety protocols have caused this
10 court to suspend a range of operations, delay criminal and civil trials, and establish
11 other procedures that have had profound negative impact on this court's ability to
12 provide timely consideration and render judgments in cases in virtually all dockets.
13 This has resulted in a continuing substantial backlog of civil, criminal, juvenile, and
14 child welfare matters. The COVID-19 challenges have been compounded by the
15 anticipated new demands on this court resulting from *State v. Blake*, 197 Wash.2d
16 170, 481 P.3d 521 (2021).
- 17 H. Given the administrative backlog this court is facing, the anticipated deluge of unlawful
18 detainer filings following expiration of the eviction moratorium presents a continuing
19 threat to the ability of this court to timely hear and fairly decide such cases consistent
20 with statutory deadlines, due process and mandated procedures.
- 21 I. State and local rent-assistance programs offer the opportunity for immediate
22 assistance in addressing rent arrearages (or portions thereof) and avoiding the need to
23 seek recourse through the unlawful detainer process. Even in unlawful detainer cases
24 that are filed, it is in this court's interest in managing its docket, facilitating just
25 outcomes, and wisely utilizing scarce judicial resources and capacity to divert cases
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1 away from the contested unlawful detainer process where there is a reasonable
2 likelihood of a just resolution.

3 J. Sec. 7(2) of ch. 115, Laws of 2021 requires that, where an ERPP is established under
4 authority of a standing judicial order, landlords use that program before filing an
5 unlawful detainer action. Section 7(3) requires that the landlord provide an ERPP-
6 approved notice to the tenant of the eviction resolution program prior to filing an
7 unlawful detainer action. The Court adopts and requires the Landlord to use the form
8 Notice developed by the Washington State Administrative Office of the Courts (AOC)
9 in collaboration with the Office of the Attorney General. See *Exhibit A* hereto.

10 K. It is understood that Center for Constructive Resolution and Conversation; Cowlitz-
11 Wahkiakum Legal Aid, and Northwest Justice Project are prepared to assist tenants
12 facing the threat of eviction and help tenants resolve that threat through non-judicial
13 processes including the Eviction Resolution Program (ERPP).

14 L. This court has determined it appropriate to issue this standing order to establish an
15 eviction resolution pilot program to divert unlawful detainer cases from the docket and
16 facilitate both pre-filing and post-filing resolution of cases where the principle issue in
17 context is non-payment of rent. The court designates that Judge Gary Bashor will
18 serve as the procedural point person to work with relevant stakeholders on the
19 implementation and ongoing administration of the ERPP and such designation has
20 been provided to AOC.
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24 2. Order

25 A. **Landlord/Landlord Counsel's Obligations regarding Eviction Resolution.** Prior to
26 serving and/or filing a summons and complaint for nonpayment of rent *post-moratoria*
27 the landlord or landlord's counsel shall:(i) ***strictly comply with*** the notice, service, and
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1 certification requirements of Sec. 7(3), (4), and (5) of Chapter 115, Laws of 2021, (ii)
2 meet and confer with the local Dispute Resolution Center (DRC) and the tenant and
3 tenant's attorney to facilitate the resolution of the issue of nonpayment of rent; and (iii)
4 file the ERPP DRC Certification Form attached as *Exhibit B* at the time of filing a
5 summons and complaint with the court.

6 **B. DRC Certification of ERPP.** The local DRC may add relevant language to a certificate
7 of ERPP participation prior to its issuance to a landlord that details: whether rent
8 assistance was available at the time of the engagement (*for example*, did the tenant
9 qualify for rent assistance and was rent assistance available in the relevant locality at
10 this time), the date the DRC received the notice and the date on the notice, whether
11 the tenant participated in ERPP efforts, whether the tenant had counsel during ERPP,
12 whether the DRC was able to conduct conciliation efforts, and any other relevant
13 information to help the court determine whether the matter is ripe for adjudication.
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15 **C. DRC Reporting Obligations.** On a quarterly basis, the local DRC shall provide to the
16 Court Administrator the ERPP data/information required by Sec. 7 (b)-(f) in a useable
17 and readable format.

18 **D. Initial Hearing Procedures for Unlawful Detainer Cases.**

19 i. Upon implementation of the right to counsel plan for this court by OCLA pursuant
20 to Secs. 8 and 9 of Chapter 115, Laws of 2021, the following provision will take effect:

21 At the first hearing, the court will advise the tenant of their right to appointed counsel if
22 indigent and inquire whether they wish to assert that right. If so, the court shall either
23 appoint counsel or refer the tenant to Northwest Justice Project (NJP) for eligibility
24 screening by sharing the name and contact number for NJP, unless counsel has
25 previously been appointed for the tenant. If a tenant is referred for screening, the Court
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1 will continue the initial hearing one (1) week to allow the litigant to contact assigned
2 counsel and to appear with counsel and provide the court with a case status update.

3 ii. In non-payment of rent cases in which a DRC Certification has been issued:

4 At the first hearing, the court shall determine: (a) whether the landlord has complied
5 with the notice, service, participation, and certification filing requirements of Sec. 7 of
6 Chapter 115, laws of 2021, and (b) whether the landlord and tenant met and conferred
7 with the local DRC for purposes of resolving the issue of nonpayment of rent.

8 Sanctions available for the landlord's noncompliance with notice, service, or
9 certification filing requirements include but are not limited to: awarding attorney's fees
10 and costs, granting a continuance, redirecting the parties back to the DRC for
11 attempted resolution, and any other relief as allowed by law and/or court rule.
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13 E. **Superseding Effect.** This order supersedes all prior standing orders issued with
14 respect to the practice and procedure relating to the pilot Eviction Resolution Program,
15 if any.

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17 DATED this 16th day of July, 2021.

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19 The Honorable
20 Presiding Judge Gary B. Bashor
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Important! Landlords: Fill out page 1 completely and correctly with all the information that you know. Your information and your attorney's information, if you have one, must be included. At the time of service or mailing of the pay or vacate notice and this form to the tenant, you must **also** send a copy to the local dispute resolution center serving the area where the property is located (see page 2). You should retain proof of service.



Behind on rent? Here is a chance to resolve the dispute with your landlord

Superior Court Eviction Resolution Pilot Program (ERPP)

Tenants: To participate see below and respond by (date): _____!
(14 days after this notice is given to tenant)

Important! Tenants: Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court (eviction).

To:

Tenant's Name:

Property Address:

Tenant's Phone:

Tenant's Email:

From:

Landlord's Name:

Landlord's service address:

Landlord's Phone:

Landlord's Email:

Landlord's Lawyer (if any) Name:

Lawyer's Address:

Lawyer's Phone:

Lawyer's Email:



Your landlord is asking you to take part in the Eviction Resolution Pilot Program



Do not wait! You can get help.

What is the Eviction Resolution Pilot Program (ERPP)?

Your county's Superior Court uses this program. ERPP requires landlords to try to reach agreements with tenants about unpaid rent before they can ask for eviction in court. You may be eligible for **rent assistance** and **legal help** through the ERPP.

If you participate in the ERPP, your landlord must work with you and a specialist from your local **Dispute Resolution Center (DRC)**. If that solves the problem, great! If not, the DRC will offer free mediation. Mediation is voluntary – it only happens if both sides agree to do it.

You have a right to negotiated **payment plan** that works for you.

Why should I participate?

If you get this notice and do **not** respond or try to reach an agreement, your landlord may file for eviction in court. You can get help from a **free lawyer** if you are not sure what to do.

Exhibit A

- Rent assistance
- Free mediation
- Free legal help

What is mediation? It is when a trained person (a mediator) helps you solve a problem or reach an agreement with someone else. You can ask for mediation at your local **Dispute Resolution Center**. Mediators are impartial and help all participants reach resolution.

Get help now! Contact these free resources in your County.

	Rent Assistance Lower Columbia CAP (360) 425-3430 ext. 288 Spanish speakers: Equity Institute at (855) 283-2241
	Dispute Resolution Centers Center for Constructive Resolution - The Mediation Center Cowlitz County office (360) 232-8622 or (360) 623-8788 erpp.cowlitz.ccrcc@gmail.com
	Lawyers cwlegalaidthousingjustice@gmail.com phone: 360-425-2579 NW Justice Project Online intake https://nwjustice.org/apply-online (855) 657-8387
	Free interpreter services are available at all these programs The Washington State Office of the Attorney General has this notice in multiple languages on its website: www.atg.wa.gov/landlord-tenant . You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at www.washingtonlawhelp.org and www.courts.wa.gov .

I want to take part in the Eviction Resolution Pilot Program. What do I do now?

You can start the process by doing one of these things:

- Contact the Dispute Resolution Center in your county.
- Fill out and return this form to your landlord at the address on page 1. Keep a copy.

You can also get a lawyer, whether or not you participate in the ERPP.

<input checked="" type="checkbox"/>	Yes, I want help resolving my unpaid rent. Contact me at:		
		Tenant's Name:	
		Tenant's Address:	
		Tenant's Phone:	Tenant's Email:

Exhibit A. cond

IN THE SUPERIOR COURT OF STATE OF WASHINGTON, IN THE COUNTY OF _____

_____	Plaintiff
vs.	
_____	Defendant(s)

NO.

DISPUTE RESOLUTION CERTIFICATE (CR)

EVICTIION RESOLUTION PROGRAM (ERP)

DRC CERTIFICATION: I declare under penalty of perjury under the laws of the State of Washington that the following is true and correct.

DRC Certification Approved by Print name:	Sign name: Signed at (city/state): Date:		
Date of DRC Certification	DRC Case #		
Certification Delivery Type	Tenant: <input type="checkbox"/> Email <input type="checkbox"/> Postal mail	Landlord: <input type="checkbox"/> Email <input type="checkbox"/> Postal mail	
City & County of Property/Dwelling:			
Landlord/Landlord Representative Name & Role (e.g., owner, property manager)			
Property Name (if applicable)			
Tenant Name			
Did Landlord have counsel? <input type="checkbox"/> YES <input type="checkbox"/> NO Counsel Name:	Did Tenant have counsel? <input type="checkbox"/> YES <input type="checkbox"/> NO Counsel Name:		
Counsel Referred? <input type="checkbox"/> Tenant <input type="checkbox"/> Landlord	Date DRC received notice:		
DRC Tried to Contact Tenant on:	Date:	Date:	Date:
Conciliation Occurred <input type="checkbox"/> YES <input type="checkbox"/> NO	Date:		
Meet & Confer Occurred <input type="checkbox"/> YES <input type="checkbox"/> NO	Date:		
Mediation Occurred <input type="checkbox"/> YES <input type="checkbox"/> NO	Date:		

Resolution Achieved ☐ Full Agreement ☐ Partial Agreement ☐ No Agreement

Additional Information:

NOTICE: By certifying herein, the Dispute Resolution Center is not making any certification as to whether the parties acted in good faith.

Exhibit B